

REMARKS

This Amendment is submitted in response to the Communication from the Patent Office dated May 12, 2004. In the Communication, the Patent Office indicated that the amendment filed by the Applicant on March 29, 2004 is non-compliant with new amendment procedure. The Patent Office stated that "the new procedure requires that each section of the amendment begin on a separate sheet, in this case, the claims start on the introductory page of the amendment." In response to the Communication, the Applicant submits the amendment originally filed on March 29, 2004 in compliance with the new amendment procedure.

This amendment is in response to the Office Action dated February 18, 2004. In the Office Action, the Patent Office rejected Claims 1, 2, 4-8, 11-17, 19 and 20 under 35 U.S.C. §103(a) as being anticipated by *Ohrn* (U.S. Patent No. 6,356,874) in view of *Stanis et al.* (U.S. Patent No. 4,135,241). Additionally, the Patent Office rejected Claims 3, 10 and 18 under 35 U.S.C. §103(a) as being unpatentable over *Ohrn* in view *Stanis et al.* and further in view of *Bruno et al.* (U.S. Patent No. 6,289,088).

Applicant notes with appreciation that the Patent Office clarified the record by correcting the Advisory Action to

indicate that the Amendment After Final raises new issues that would require further consideration and/or search. Additionally, Applicant notes with appreciation that the Patent Office considered the arguments of the Appellant's Appeal Brief and re-opened examination of the application. Further, Applicant notes with appreciation that the Patent Office withdrew the refusal to enter the Amendment After Final. Moreover, Applicant notes with appreciation that the Patent Office entered and considered the Amendment After Final.

The Patent Office indicated to Applicant's Attorney during a telephonic interview held on March 15, 2004 that the rejection of Claims 1, 2, 4-8, 11-17, 19 and 20 under 35 U.S.C. §103(a) as being anticipated by *Ohrn* in view of *Stanis et al.* would be overcome by incorporating Claims 11-13 and 20 into Claims 1 and 14, respectively. More specifically, the Patent Office indicated that the incorporation of a step of searching the bed availability information for the plurality of healthcare facilities in the database and a means for searching the database for the bed availability information of the plurality of healthcare facilities into Claims 1 and 14, respectively, overcomes the rejection of Claims 1, 2, 4-8, 14-17 and 19 under 35 U.S.C. §103(a) as being anticipated by *Ohrn* in view of *Stanis et al.* In accordance with the suggestions made by the Patent

Office during the telephonic interview, Applicant incorporated the step of searching the bed availability information for the plurality of healthcare facilities in the database and the means for searching the database for the bed availability information of the plurality of healthcare facilities into Claims 1 and 14, respectively. Moreover, Claims 11-13 and 20 were canceled in accordance with the suggestions made by the Patent Office during the telephonic interview. Furthermore, Applicant amended Claims 1 and 14 in accordance to the suggestions of the Patent Office and submits that the amendments to the claims overcome the rejections by the Patent Office for the reasons that follow. Notice to that effect is requested.

In the Office Action, the Patent Office asserts that "*Ohrn* teaches the use of the reservation system from a doctor's office for hospital admissions (reservations), but does not teach the detail of entry of medical conditions; *Stanis et al.* teaches entry of medical conditions; it is well known in the hospital environment to have different wards that patients are admitted to and would have been obvious to one of ordinary skill in the art for the purpose of properly caring for a patient, e.g. a cardiac patient would not be admitted to the maternity ward, because the treatment requirements and equipment are different". Moreover, the Patent Office asserts the "the internet was old

and well known by the April 2000 filing date."

By the present Amendment, Applicant amended Claims 1 and 14, canceled Claims 11-13 and 20 and submits that the amendments to the claims overcome the rejections by the Patent Office for the reasons that follow.

With respect to assertion of the Patent Office that it is well-known in the hospital environment to have different wards that patients are admitted to and would have been obvious to one of ordinary skill in the art for the purpose of properly caring for a patient because the treatment requirements and equipment are different, Applicant submits that the teachings of *Ohrn*, *Stanis et al.* and *Bruno et al.*, taken singly or in combination, fail to support the assertion. Additionally, Applicant asserts that the teachings of *Ohrn*, *Stanis et al.* and *Bruno et al.*, taken singly or in combination, fail to illustrate that it is well known in the hospital environment to have different wards that patients are admitted to and would have been obvious to one of ordinary skill in the art for the purpose of properly caring for a patient because the treatment requirements and equipment are different. Furthermore, Applicant submits that the assertion is an improper basis for formulating a rejection under 35 U.S.C. §102 and/or §103 and should be withdrawn. Notice to that effect is requested.

With respect to assertion of the Patent Office that the Internet was old and well-known by the April 2000 filing date, Applicant submits that the teachings of *Ohrn, Stanis et al.* and *Bruno et al.*, taken singly or in combination, does not teach or suggest that the Internet was old and well-known as of the April 2000 filing date. Additionally, Applicant asserts that the teachings of *Ohrn, Stanis et al.* and *Bruno et al.*, taken singly or in combination, fail to illustrate that the Internet was old and well-known by the April 2000 filing date. Notice to that effect is requested.

As to the rejection of Claims 1, 2, 4-9, 11-17, 19 and 20 under 35 U.S.C. §103(a) as being anticipated by *Ohrn* in view of *Stanis et al.*, Applicant submits that this rejection has been overcome in view of the amended claims and for the reasons that follow.

As discussed during the telephone interview with Examiner Dixon, independent Claim 1, as amended, requires a method for providing bed availability information to a user having the step of inputting a medical condition of the patient into the database. Further, Claim 1 requires the step of searching the bed availability information for the plurality of healthcare facilities in the database. Still further, Claim 1 requires the step of matching the medical condition of the patient to one of

the types of medical care to obtain the bed availability information of the plurality of healthcare facilities based on each of the plurality of healthcare facilities having beds for providing one of the types of medical care to treat the medical condition of the patient. Moreover, Claim 1 requires the step of determining the available bed in the plurality of healthcare facilities for the patient with the medical condition from the bed availability information based upon the medical condition of the user in the database.

As further discussed during the interview with Examiner Dixon, independent Claim 14, as amended, requires a system for storing and accessing bed availability information to a user having means for inputting information of the patient into a form via the computer network wherein the information of the patient is stored in the database. Further, Claim 14 requires means for searching the database for the bed availability information of the plurality of healthcare facilities. Still further, Claim 14 requires means for comparing the information of the patient in the database to the bed availability information in the database to obtain each of the plurality of healthcare facilities for treating the patient. Moreover, Claim 14 requires means for determining if a bed in the plurality of beds at each of the plurality of healthcare facilities for

treating the patient is available based on the information of the patient in the database.

In the Office Action, the Patent Office alleges:

As per Claim 1, 14.

Ohrn ('874) discloses:

providing a network, see column 7, lines 60-66 and figure 1;

inputting bed availability information for a plurality of healthcare facilities, wherein each of the plurality of healthcare facilities have beds and further wherein the bed availability information is input into the database and is accessible by the computer network, see column 6, lines 6-45, column 7, lines 60-66 and column 10, lines 22-30;

providing a first access to the database for finding the bed availability information by a user of the database, see column 6, lines 6-45.

Ohrn ('874) further discloses searching a database based on user entered criteria for the bed availability information, see column 5, lines 37-63.

Ohrn ('874) does not specifically disclose entering individual medical condition of a patient.

Stanis et al. ('241) teaches availability of beds and the information about the patient occupying the bed, see column 3, lines 14-25 for the benefit of managing the status of beds in a hospital.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to include patient conditions and availability of beds in the invention of *Ohrn* ('874) as taught by *Stanis et al.* ('241) for benefit of accurately placing patients in the correct ward.

Contrary to the assertions of the Patent Office, *Ohrn* merely teaches that "a method for ordering services, especially for

booking hotel rooms and travel at home and abroad as well as medical services, wherein the ordering is performed via a user terminal connected to a central data processing device". (See *Ohrn*, col. 1, lines 5-9.) Further, *Ohrn* teaches that "the central data processing device comprises a data storage device and is also connected to a service location terminal. (See *Ohrn*, col. 1, lines 9-11.)

Stanis et al. merely teach a system "to store temporary information pertaining to the status of the bed (clean, ready, occupied, etc.) and information as to who is the current occupant of the bed". (See *Stanis et al.*, col. 7, lines 48-51.) Moreover, *Stanis et al.* teach that "a search is made for all bed numbers in locations containing a specified nursing station number and control characters indicating a need for special attention or service." (See *Stanis et al.*, col. 21, lines 25-28.)

Claim 1 requires the step of inputting a medical condition of the user to determine the bed availability for the user with the medical condition. The Patent Office admits that *Ohrn* fails to specifically disclose entering an individual medical condition of a patient. Moreover, the Patent Office alleges *Stanis et al.* teach entering medical information for the benefit of accurate billing and records management. On the contrary,

Stanis et al. merely teach that "the system is capable of transmitting and receiving all of the communications, orders, and requests normally handled in a hospital and of automatically compiling and computing all necessary data relating to patient charges and the status of the beds in the hospital, as well as providing a running inventory control" (See *Stanis et al.*, column 4, lines 23-29.)

Clearly, neither *Ohrn* nor *Stanis et al.*, taken singly or in combination, teach or suggest a method having the step of inputting a medical condition of the patient to determine the bed availability for the user with the medical condition as required by Claim 1. Contrary to assertions of the Patent Office, *Stanis et al.* do not teach or suggest a method having a step of inputting a medical condition of the user to determine the bed availability for the user with the medical condition as required by Claim 1. Furthermore, *Stanis et al.* merely teach that "other sections are used to store temporary information pertaining to the status of the bed (clean, ready, occupied, etc.) and information as to who is the current occupant of the bed". (See *Stanis et al.*, column 7, lines 47-51.)

Further, neither *Ohrn* nor *Stanis et al.*, taken singly or in combination, teach or suggest a step of searching the bed availability information for the plurality of healthcare

facilities in the database as required by Claim 1. Still further, neither *Ohrn* nor *Stanis et al.*, taken singly or in combination, teach or suggest a step of matching the medical condition to one of the types of medical care to obtain the bed availability information based on each of the plurality of healthcare facilities having beds for providing one of the types of medical care to treat the medical condition as required by Claim 1. Moreover, neither *Ohrn* nor *Stanis et al.*, taken singly or in combination, teach a method having the step of determining the available bed in the plurality of healthcare facilities for the patient with the medical condition from the bed availability information based upon the medical condition of the patient in the database as required by Claim 1. Additionally, *Ohrn* merely teaches that "if booking of a hotel room is now involved, the central data processing device will provide information via the voice network interface on vacant room, price, the situation of hotels in the service location concerned together with the code for the hotel". (See *Ohrn*, column 9, lines 13-18.)

Clearly, neither *Ohrn* nor *Stanis et al.*, taken singly or in combination, teach or suggest a system having means for inputting information of the patient into a form via the computer network wherein the information of the patient is stored in the database as required by Claim 14. Further,

neither *Ohrn* nor *Stanis et al.*, taken singly or in combination, teach or suggest a system having means for searching the database for the bed availability information of the plurality of healthcare facilities as required by Claim 14. Still further, neither *Ohrn* nor *Stanis et al.*, taken singly or in combination, teach or suggest a system having means for comparing the information of the patient in the database to the bed availability information in the database to obtain each of the plurality of healthcare facilities for treating the patient as required by Claim 14. *Ohrn* merely teaches that "if the orders are made within the framework of a public health system, the user terminals can be located in doctor's surgeries and the like and used by a doctor in private practice for ordering consultations with specialists, admissions to hospital and operations, etc." (See *Ohrn*, column 10, lines 25-30.) *Stanis et al.* merely teach that "bed information search logic for compiling listings of the information stored in this area, such as lists by nursing station of beds which need attention, lists by nursing station of beds which are in a particular status (available, occupied etc.), lists of patients admitted on a particular day, and the like." (See *Stanis et al.*, column 3, lines 20-25.)

Further, neither *Ohrn* nor *Stanis et al.*, taken singly or in

combination, teach or suggest a system for storing and accessing bed availability information to a user having means for determining if a bed in the plurality of beds at each of the plurality of healthcare facilities for treating the patient is available based on the information of the patient in the database as required by Claim 14. As stated above, *Ohrn* teaches that "if booking of a hotel room is now involved, the central data processing device will provide information via the voice network interface on vacant room, price, the situation of hotels in the service location concerned together with the code for the hotel". (See *Ohrn*, column 9, lines 13-18.)

Moreover, a person of ordinary skill in the art would never have been motivated to combine *Ohrn* with *Stanis et al.* in the manner suggested by the Patent Office in formulating the rejection under 35 U.S.C. §103(a). Applicant submits that the Patent Office is merely "piece-mealing" references together, providing various teachings and positively defined limitations of Applicant's method and system for providing bed availability information to deprecate the claimed invention. Of course, hindsight reconstruction of Applicant's invention is impermissible. Applicant respectfully submits that Claims 1 and 14 distinctly define the present invention from *Ohrn* and/or *Stanis et al.*, taken singly or in combination.

With the analysis of the deficiencies of *Ohrn* and *Stanis et al.* in mind, no reason or suggestion in the evidence of record exists why one of ordinary skill in the art would have been led to combine *Ohrn* and *Stanis et al.* in the manner suggested by the Patent Office in formulating the rejections under 35 U.S.C. §103(a). Therefore, *prima facie* obviousness has not been established by the Patent Office as required under 35 U.S.C. §103(a).

It is submitted that the question under §103 is whether the totality of the art would collectively suggest the claimed invention to one of ordinary skill in this art. In re Simon, 461 F.2d 1387, 174 USPQ 114 (CCPA 1972).

Applicant further submits that one having ordinary skill in the art at the time of Applicant's invention would never have been motivated to modify *Ohrn* with *Stanis et al.* in the manner suggested by the Patent Office in formulating the rejections under 35 U.S.C. §103(a).

That elements, even distinguishing elements, are disclosed in the art is alone insufficient. It is common to find elements somewhere in the art. Moreover, most, if not all, elements perform their ordained and expected functions. The test is whether the invention as a whole, in light of all the teachings of the references in their entireties, would have been obvious

to one of ordinary skill in the art at the time the invention was made. *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1545, 220 USPQ 193 (Fed. Cir. 1983).

Applicant submits that the Patent Office has merely located components of Applicant's claimed invention. However, that the art disclosed components of Applicant's claimed invention, either separately or used in other combinations, is insufficient. A teaching, suggestion, or incentive must exist to make the combination made by Applicant. *Interconnect Planning Corp. v. Feil*, 774 F. 2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1988).

Even assuming that one having ordinary skill in the art could somehow have combined *Ohrn* and *Stanis et al.* as set forth by the Patent Office, the resultant combination still lacks the critical steps and elements positively recited in Claims 1 and 14, respectively.

In view of the foregoing remarks and amendments, Applicant respectfully submits that the rejection of Claims 1, 2, 4-9, 11-17, 19 and 20 under 35 U.S.C. §103(a) has been overcome and should be withdrawn. Notice to that effect is requested.

With respect to the rejection of Claims 3, 10 and 18 under 35 U.S.C. §103(a) as being unpatentable over *Ohrn* in view of *Stanis et al.* and further in view of *Bruno et al.*, Applicant

respectfully submits that the rejections have been overcome by the amendments to the independent claims since *Ohrn, Stanis et al.* and/or *Bruno et al.*, taken singly or in combination, fail to teach or suggest the critical steps and features defined in amended Claims 1 and 14, respectively. Notice to that effect is requested.

Claims 2-10 depend from independent Claim 1; and Claims 15-19 depend from independent Claim 14. These claims are also believed allowable since each sets forth additional novel steps and structural elements of Applicant's method and system, respectively.

In view of the foregoing remarks and amendments, Applicant respectfully submits that all of the claims in the application are in allowable form and that the application is in condition for allowance. If, however, any outstanding issues remain, Applicant urges the Patent Office to telephone Applicant's attorney so that the same may be resolved and the application expedited to issue. Applicant requests the Patent Office to indicate all claims as allowable and to pass the application to

issue.


Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this **AMENDMENT** is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to the Mail Stop Non-Fee Amendment, Commissioner for Patents, Alexandria, VA 22313-1450 on May 18, 2004.


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